

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 17-00270-01-CR-W-DGK

v.

DONNIE BRETT BUTCHER,

Defendant.

**MOTION OF THE UNITED STATES FOR PRETRIAL
DETENTION AND A HEARING PURSUANT TO
TITLE 18 , UNITED STATES CODE, SECTION 3142(f)**

COMES NOW the United States of America, by Thomas M. Larson, Acting United States Attorney, and the undersigned Assistant United States Attorney, both for the Western District of Missouri, and hereby moves the court to hold a hearing pursuant to 18 U.S.C. § 3142(f), for the purpose of demonstrating that no condition or combination of conditions of release will reasonably assure the safety of other persons and the community if defendant is granted bond, nor will any conditions secure defendant's appearance, and that therefore the defendant should be detained.

SUPPORTING SUGGESTIONS

1. Subsection 3142(f), Title 18, United States Code, provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community if the attorney for the Government moves for such a hearing and if the case is in any one of the following categories:

A. The case involves a crime of violence, a term defined at Section 3156 to include either:

1. an offense that has as an element of the use, attempted use,

or threatened use of physical force against the person or property of another;

2. any other offense that is a felony and by its nature involves a

substantial risk that physical force against the person or property of another may be used in the course of its commission; or

3. any felony under chapter . . . 110 [18 U.S.C. §§ 2251 through

2260] . . .

B. The case involves an offense where the maximum sentence is life imprisonment or death.

C. The case is a narcotics case under Title 21, United States Code, for which imprisonment for ten years or more is prescribed.

D. Any felony, even a non-violent felony not involving drugs, if the person already has two or more convictions for a crime of violence, a crime punishable by life imprisonment, or a ten year drug felony.

E. Any felony that is not otherwise a crime of violence that involves a minor victim or that involves the possession or use of a firearm or destructive device, or any other dangerous weapon, or involves a failure to register under Section 2250 of Title 18, United States Code.

2. The statute recognizes two additional situations which allow for a detention hearing and which can be raised either by the attorney for the Government or by a judicial officer. These conditions are:

A. When there is a serious risk that the defendant will flee; or
B. When there is a serious risk that the person will “obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.”

3. One or more grounds for pretrial detention and a pretrial detention hearing as set forth by the statute exists in the above cause, to wit:

A. The Defendant is Charged with a Crime of Violence

Probable cause exists to believe that the defendant committed two counts of attempted distribution of child pornography, and one count of possession of child pornography. These are crimes of violence as defined by 18 U.S.C. § 3156(a)(4)(A) and referred to in 18 U.S.C. § 3142(f)(1)(A).

B. The Law Provides a Rebuttable Presumption That No Combination of Conditions Will Reasonably Assure the Safety of the Community

Pursuant to 18 U.S.C. § 3142(e)(3)(E), the law provides that, when a judicial officer finds that there is probable cause to believe that the defendant has committed an offense involving a minor under § 2252(a)(2), which defendant has been charged with, “[s]ubject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure . . . the safety of the community.”

C. The Defendant is a Danger to the Community

The investigation of this offense has uncovered evidence that the defendant is a danger to the community, and specifically a danger to minors. Such evidence includes the following:

1. The defendant used the user names “Joe_Mann” and “Joe_Mann14” on the “partyandplay.net” website. The user identified himself as a 43 year old white male from the Midwest

who travels to New York City on business. Although the user was seeking to meet a young male, age 18 to 30. Screenshots from the website indicate that “Joe_Mann” was looking for males somewhat younger than 18 years. The user indicated he was interested in PNP. PNP stands for “party and play,” a term indicating that the user may take drugs (often meth) and then engage in sexual activity.

2. On March 6, 2017, while executing federal search warrant at defendant’s residence, FBI Special Agent Megan Kline reviewed the defendant’s iPhone and observed a number of text conversations involving persons who were responding to his Craigslist advertisements. SA Kline observed photographs of a young white male, some of which show the male with his genitals exposed. The male appears to be young but it is impossible to confirm his age since SA Kline was unsuccessful in her attempts to identify the male.

3. During execution of the search warrant at defendant’s residence, defendant admitted to downloading and sharing child pornography over the internet. He also admitted to using the Kik user name “Joe_Mann14”. Finally, defendant admitted to using methamphetamine.

D. The Defendant is a Potential Flight Risk

The defendant is a potential flight risk because he is aware of the extensive potential punishment awaiting him upon conviction. The charges the defendant faces carry a statutory punishment of not less than 5 years to not more than 20 years imprisonment.

Conclusion

The defendant has engaged in a crime of violence. He is a proven risk to minors, and he is aware of the minimum mandatory sentence that his charges carry. The potential punishment maximizes the defendant's risk of flight.

WHEREFORE, the Government respectfully requests that this Honorable Court set a detention hearing to demonstrate that no condition or combination of conditions will reasonably assure the safety of the community or diminish the defendant's risk of flight in the face of strong evidence which will exact lengthy prison sentences. The Government further requests that the Court thereafter detain defendant without bail.

Respectfully submitted,

Thomas M. Larson
Acting United States Attorney

By */s/ Catherine A. Connely*

Catherine A. Connely
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on September 5, 2017, to the CM-ECF system of the United States District Court for the Western District of Missouri, and a copy of the foregoing will be hand-delivered to the defendant at his first appearance before a judicial officer.

/s/ Catherine A. Connely
Catherine A. Connely
Assistant United States Attorney